The shelling of Knin by the Croatian Army in August 1995: A police operation or a non-international armed conflict?

by
PHENYO KEISENG RAKATE

In August 1995, the Croatian Army in an operation called Operation Storm — otherwise known as *Oluja* — targeted and killed Serb minorities in the town of Knin, in Croatia. As a result, the Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY) carried out an investigation with the aim of prosecuting those who had allegedly violated principles of international humanitarian law. The government of Croatia refused to cooperate with the Tribunal and argued that Operation Storm was neither an internal nor an international armed conflict, but an "internal police operation".

This paper is based largely on the *Tadic* Appeals Decision (Jurisdiction) of the ICTY and the Geneva Conventions of 12 August 1949 for the protection of war victims. It examines the arguments put forward by the Croatian government and concludes that, in the light of the criteria set out by the ICTY Appeal's Chamber Operation Storm

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did constitute an armed conflict. It is further concluded that the fact that the Federal Republic of Yugoslavia (Serbia-Montenegro) offered token assistance to the "Republika Srpska Krajina" prior to Operation Storm is but a slender justification for invoking Article 2 common to the Geneva Conventions.

Operation Storm (Oluja)

After Croatia had declared its independence on 8 October 1991, Serb minorities in Croatia voted for independence from Zagreb to form their own State. The so-called "Republika Srpska Krajina" (RSK), with Knin as its capital, came into being on 12 February 1994.[1] The RSK had its own military forces, the Serbian Army of Krajina (Srpska Vojska Krajine — SVK). Milan Martic was elected as its "President" in 1994. The RSK did not enjoy international recognition as an independent and sovereign State. Consequently, although the "Republika Srpska" was represented at the Dayton Peace Accord negotiations, its representatives were not authorized to sign the accord; instead the Federal Republic of Yugoslavia signed on behalf of the Krajina authorities.[2]

On 4 August 1995 the Croatian Army launched an organized attack against the "Republika Srpska". The shelling of Knin also started on that same day. Operation Storm lasted from 4 to 8 August 1995. The purpose of *Oluja* was to seize the areas allegedly captured by Serbs during the war in 1991. The operation was executed by four District Corps, each with its own commander. Before Operation Storm there had been other military operations by the Croatian Army against Serb enclaves, such as Operations Medak Pocket (1993), Maslenica (1995) and Flash (1995),[3] which had resulted in the killing of civilians

1 See in general Mile Dakic, *The Serbian Krayina: Historical Roots and its Birth*, Iskra, Knin, 1994.

2 General Framework Agreement for Peace in Bosnia and Herzegovina (Paris, 14 December 1995), in *International Legal Materials*, January 1996, pp. 75 ff. — See the formula used in the "Side Letters": "As head of the delegation authorized to negotiate and sign [the Dayton Accord] on behalf of the Republika Srpska...", signed by President Slobodan Milosevic. *Ibid.*

3 On these operations see Guy Janssen and Joakim Robertsson, *In the Name of Justice*, unpublished memorandum, Amsterdam School of International Relations, 1997 (on file with the author).

and in massive destruction of civilian properties, especially non-Croat. Despite the size of these operations, the Croatian government and media continued to refer to them as "internal police operations". Operation Storm had been on the cards for some time.[4]

These indiscriminate attacks caused many civilian casualties, especially among non-Croats. Subsequently, there were lootings and destruction of civilian property; houses were torched, United Nations forces were prevented from carrying out humanitarian aid and people were held hostage.[5] The Croatian government estimated that 911 people were killed during Operation Storm.[6]

Resistance by the Serbian Army of Krajina against the Croatian Army was minimal if not insignificant. Military experts suggest that the SVK lacked the necessary artillery to defend itself. General Mrskic and 400 retired Serbian volunteers from the Yugoslav Army were sent to bolster the SVK. This, however, was inadequate to face the well planned Croatian attack.

After the shelling of Knin, President Tudjman visited the town and hoisted the Croatian flag to mark the victory of Croats over Serb rebels in Croatia.[7]

The investigation by the ICTY Prosecutor

Pursuant to Rule 39 of the Rules of Procedure and Evidence of the ICTY and the Consolidated Request for Assistance between the Prosecutor and the Croatian Office for Co-operation with the International Criminal Tribunal for the former Yugoslavia,[8]

4 Ante Gotovina, *Offensives and Operations of HV/Croatian Army and HVO*, Knin, 1996 (publication of the Croatian Army, translated from Serbo-Croat by the ICTY – on file with the author).

5 "On Operation Storm", *Voice of the Croatian Army*, No. 2, Zagreb (official newsletter of the Croatian Army; translated from Serbo-Croat by the ICTY – on file with the author).

6 Report of the Croatian Government on the Implementation of Security Council Resolution No. 1019 (1995), *ibid.*

7 Snezana Trifunovska (ed.), *Former Yugoslavia Through Documents: From its Dissolution to the Peace Settlement*, 1999, p. 669.

8 See "Constitutional law on the cooperation of the Republic of Croatia with the International War Crimes Tribunal", *Norodne Novine*, No. 32/96, 1996, adopted by the Croatian government pursuant to Security Council Resolution 1019 (1995), para. 5, *supra* (note 6).

the Prosecutor asked the Croatian government for its official position regarding Operation Storm, in terms of the following information:

1. a) The specific political and military objectives of Operation Storm;
   b) situation reports regarding the combat phases of the operation;
   c) the flight of refugees and displaced persons following combat operations.
2. Croatian government statements or reports in response to any allegations of excessive use of force, civilian casualties, attacks on non-military targets, human rights violations or war crimes by Croatian forces during, and in the aftermath of, the operation.
3. The orders of battle, and information on assigned areas of operational responsibility for all active-duty and reserve Croatian military (regular Croatian Army and Home Guard), Air Force, and Interior Ministry units mobilized and deployed for Operation Storm.[9]

After some prolonged correspondence between the Croatian government and the Prosecutor's Office, the Head of the Croatian Office for Co-operation with the ICTY finally replied in a letter dated 29 May 1997, setting out his government's position with regard to this request: Operation Storm did not involve an armed conflict, as that term is understood under accepted principles of international law, but was a police action which lasted approximately 84 hours; accordingly, the ICTY had no competence or jurisdiction to investigate or prosecute individuals for alleged violations of international humanitarian law during Operation Storm. As a result the requested documents were, he wrote, not relevant or material to any task properly within the ICTY's competence.[10]

9 Letter by Mr Graham Blewitt, Deputy Public Prosecutor of the ICTY, dated 11 December 1996 (on file with the author).

10 Letter by the Head of the Croatian Office for Co-operation with the ICTY (on file with the author).

In essence, the Croatian government challenged the jurisdiction of the Tribunal on the basis that *Oluja* was an internal police matter and as such was below the threshhold of an armed conflict.[11]

Proving the existence of an armed conflict

a) The ICTY's jurisprudence

In the *Tadic* Appeal Decision, the Appeals Chamber considered that in the light of the 1949 Geneva Conventions and the 1977 Additional Protocols, the requirements for the existence of an armed conflict were fulfilled.[12] The Appeals Chamber spelt out what constitutes an armed conflict:

> "(i) resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State;
> (ii) applicability of international humanitarian law from the beginning of the conflict until the end of active hostilities and/or a peace agreement between the parties to the conflict;
> (iii) applicability of international humanitarian law in the whole territory controlled by the parties to the conflict;
> (iv) existence of a *nexus* between the conflict and other similar or related events within the territory of the parties to the conflict. A separate incident may be regarded as part of the armed conflict, as long that there is a *nexus* between the events."[13]

b) Did Operation Storm take place in a situation of internal disturbances or in an armed conflict?

The intrinsic nature and military character of Operation Storm were such that it could never be akin to a mere police operation, as suggested by the Croatian authorities. Indeed, this was acknowledged by one of the commanders of the operation, General Gotovina. He

11 The Croatian government reiterated this position in its letter of 18 May 1998 addressed to the Office of the Prosecutor (on file with the author).

12 *The Prosecutor* v. *Dusko Tadic*, Case No. IT-94-AR72 (Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction).

13 *Ibid.*, para. 70.

stated, *inter alia,* that "[a]lready in the first hours of the Operation, military analysts, journalists and representatives of the international political elite were so obviously interested in and surprised by the military operation, that they were almost disoriented since [*sic*] the scope and complexity of such a military operation which could only have been seen during Desert Storm in the Gulf".[14] This is why, he continued, "the foreign military experts were unable to understand fully the combat dynamics and the attacks carried out deep into such a large combat area. In recent military history, such achievements could only be compared to the sophistication of combat operations in Desert Storm".[15] He went on to emphasize that "[i]nternational military analysts never thought that the Croatian soldier would be able to take part in such a wide ranging and complex operation and [Operation] Storm simply took their breath away".[16]

The Inter-American Commission on Human Rights considered a case with a set of facts similar to those of Operation Storm: the *La Tablada* case.[17] That case dealt with an incident in La Tablada, Buenos Aires Province (Argentina), between an alleged "organized armed group" and the La Tablada Regiment No. 3 in 1989 in which 29 people lost their lives, an operation alleged to have lasted for thirty minutes. In distinguishing internal disturbances and tensions from a non-international armed conflict, the Commission referred to the criteria worked out by the International Committee of the Red Cross in its *Commentary* on the 1973 Draft Additional Protocols to the Geneva Conventions. Accordingly, the criteria determining the existence of internal disturbances and tensions are as follows:

- disturbances are not based on a concerted intent and are not controlled by a political leader;
- disturbances are of an isolated and sporadic nature;
- disturbances are characterized by mass arrests due to political differences and behaviour.

14 *Op. cit.* (note 4), p. 2.
15 *Ibid.*, p. 11.
16 *Ibid.*, p.7.
17 Inter-American Commission on Human Rights, Case No. 11. 137 Argentina, Report No. 55/97, OEA/Ser/L/V/LL.97 Doc.38.

Such internal disturbances or tensions do not, as the Commission observed, trigger the applicability of Article 3 common to the Geneva Conventions.[18]

However, after careful examination of the nature and character of the Tablada incident, the Commission concluded:

> "154. Based on a careful appreciation of the facts, the Commission does not believe that the violent acts at the Tablada military base on January 23 and 24, 1989 can be properly characterised as a situation of internal disturbances. What happened there was not equivalent to large scale violent demonstrations, students throwing stones at the police, bandits holding persons hostage for ransom, or the assassination of government officials for political reasons — all forms of domestic violence not qualifying as armed conflicts.
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> 155. What differentiates the events at the Tablada base from these situations are the concerted nature of the hostile acts undertaken by the attackers, the direct involvement of governmental armed forces, and the nature and level of the violence attending the events in question. More particularly, the attackers involved carefully planned, co-ordinated and executed an armed attack, i.e., a military operation, against a quintessentially military objective...
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> 156. The Commission concludes therefore that, despite its brief duration, the violent clash between the attackers and members of the Argentine armed forces triggered application of the provisions of Common Article 3, as well as other rules relevant to the conduct of internal hostilities."[19]

During Operation Storm there were many casualties among the civilian — especially the non-Croat — population and among members of the UN forces. When the shelling of Knin started on 4 August 1995, the Croatian Army fired heavy rockets which destroyed many civilian properties. Officers were often seen by UN personnel looting properties of Serb civilians. Tanks blockaded the UN military headquarters in Sector South, preventing personnel there from assisting wounded civilians. The transportation of wounded civilians to

18 *Ibid.*, para. 149 (footnote omitted). 19 *Ibid.*

the Knin hospital was obstructed by Croatian commanders. Spurred by the killing and wounding of UN personnel, General Forand, the UN Commander of Sector South and a military expert, wrote a letter of protest to General Gotovina, Commander of Split Corps District:

> "This is to protest in the most vigorous manner the unprovoked artillery attack on Knin and the town of Drnis, Medak, Bunic, Benkovac and Kristanje. I demand the cessation of these attacks immediately. In my opinion this aggression against unarmed civilians is completely contrary to international humanitarian law and I will document all attacks for full investigation by international authorities."[20]

Despite the protest by General Forand and other UN officers, military operations continued unabated, killing a great number of civilians including children and the elderly. As a result of the Croatian Army's attacks many Krajina Serbs fled Knin and the surrounding areas and moved to Bosnia and Herzegovina or Serbia. Those who were not able to flee sought refuge at the headquarters of the UN forces.

In the *Tablada* case, the Inter-American Commission of Human Rights observed that "international humanitarian law generally does not apply in peacetime, and its fundamental purpose is to place restraints on the conduct of warfare in order to diminish the effects of hostilities. It is understandable therefore that the provisions of conventional and customary humanitarian law generally afford victims of armed conflicts greater or more specific protections..."[21] The Croatian Army and the Serbian Army of Krajina (SVK) were consequently under an international obligation to respect rules of international humanitarian law.

c) Cessation of hostilities

Although hostilities subsided in Bosnia and Herzegovina following the agreements concluded in Washington and Split between

20 Letter by Major General Forand, UN Commander of Sector South, addressed to General Gotovina, Commander of Split Corps District, dated 4 August 1995 (on file with the author).

21 *Op. cit.* (note 17), para. 159.

the Croatian and Bosnian governments, it was only in December 1995 that the Dayton Agreement brought peace to the region. Hostilities had in fact continued in the Krajina until that moment.[22]

d) Was there a nexus between the armed conflict and other similar violent acts prior to Operation Storm in Croatia?

Even if Operation Storm is not in itself deemed to be a non-international armed conflict, there is undoubtedly a link between these events and previous military operations in Croatia. Indeed, hostilities between Croats and Serbs continued after the withdrawal of the Yugoslav Army in May 1992. That conflict continued until the Dayton Peace Accord in December 1995. Viewed in that context, Operation Storm was not a separate incident, but was part of a series of ongoing military operations carried out by the Croatian Army.

To sum up, in the author's opinion Operation Storm was not an isolated or sporadic internal disturbance but a distinct military operation involving high officials of the Croatian government, including the late President Franjo Tudjman. Moreover, as Major-General Ante Gotovina suggested in his *Oluja* (an official publication of the Croatian Army),[23] Operation Storm was of a high military standard comparable to Desert Storm during the Gulf War. In the light of the above arguments it is illogical to claim, as the Croatian government does, that Operation Storm was an internal police matter.

The requirements of international law regarding internal armed conflicts

a) Protocol II additional to the Geneva Conventions

On 8 June 1977, the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts adopted Protocol II additional to the Geneva Conventions.[24] Henceforward, Article 3 common to the

22 *Op. cit.* (note 4).

23 *Op. cit.* (note 15).

24 Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.

Geneva Conventions and Protocol II apply to non-international armed conflicts.

In terms of Article 1, paragraph 1, Protocol II applies to "all armed conflicts (...) which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces (...) which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol".

The second paragraph thereof specifies that Protocol II does not apply "to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts".

This means that Protocol II applies to internal armed conflicts of such a nature that they can be qualified as civil wars. As one commentator noted:

> "Protocol II (...) contains objective qualifications, such as the requirement that there be control of part of the territory by opposition forces. Furthermore, that control must be sufficient to enable the rebels to carry out 'sustained and concerted military operations'. Accordingly, the rebels, *inter alia*, must be able to detain prisoners, treat them humanely and give adequate care to the wounded and sick. These criteria are primarily designed to restrict the application of Protocol II to serious cases of rebellion."[25]

The situation in which Operation Storm took place fulfils the requirements of Protocol II. At least before 4 August 1995, the SVK was in control of part of the territory of Croatia and was thus able to carry out "sustained and concerted military operations". These were not mere internal disturbances or tensions but an armed conflict taking place between armed forces of a State party to the Geneva Conventions and Protocol II, on the one hand, and dissenting forces, on the other.

25 Henri Kogman, "International humanitarian law", *Amsterdam University Journal of International Law & Policy*, Vol. 9, 1993, pp. 62-63.

b) Article 3 common to the 1949 Geneva Conventions

The essence of Article 3 common to the Geneva Conventions is to prohibit inhuman treatment of civilians not directly involved in acts of war. It outlaws, for example, the taking of hostages or inhuman and degrading treatment of civilians, and stipulates that the wounded and sick must be cared for. During Operation Storm, the Croatian Army prevented UN personnel from assisting wounded Serb civilians (the "Knin hospital incident").[26] Thus people who were not directly involved in military operations became targets of the Croatian Army, in violation of Article 3 of the Geneva Conventions.

c) State practice: the case of Rwanda

The conflict in Rwanda between the Rwanda Patriotic Front (RPF) and the Hutu militia, the *Interahamwe* ("those who attack together"), in April 1994 is a clear example of an internal armed conflict. This was indeed the opinion of the Commission of Experts appointed pursuant to Security Council Resolution 935 to investigate gross violations of international humanitarian law in Rwanda between April and December 1994:[27]

> "146. The Commission of Experts concludes, on the basis of ample evidence, that individuals from both sides to the armed conflict in Rwanda during the period 6 April 1994 to 15 July have perpetrated serious breaches of international humanitarian law, in particular of obligations set forth in Article 3 common to the four Geneva Conventions of 12 August 1949 and in Protocol II additional to the Geneva Conventions and relating to the protection of victims of non-international armed conflicts..."

The Rwanda precedent further supports the conclusion that the conflict between the Croatian Army and the Serbian Army of Krajina constituted an armed conflict and that crimes committed

26 Letter by General Forand, *supra* (note 20).

27 Preliminary Report of the Independent Commission of Experts Established in Accordance with Security Council Resolution 935 (1994), UN Doc. S/1994/1125.

during Operation Storm have to be judged under Article 3 common to the Geneva Conventions and their Additional Protocol II.

Has the conflict an international character?

a) Practice of the ICTY regarding qualification as an international armed conflict

As set out in the *Tadic* Appeal Decision, an international armed conflict in the sense of international humanitarian law occurs (i) in the case of an armed conflict between two independent States, or (ii) in the case of a third party's involvement in an internal conflict. The Appeals Chamber noted that the Security Council was aware of the fact that the conflict in the former Yugoslavia had both internal and international dimensions:

> "(...) The conflict in the former Yugoslavia had been rendered international by the involvement of the Croatian Army in Bosnia-Herzegovina and by the involvement of the Yugoslav National Army (JNA) in hostilities in Croatia, as well as in Bosnia-Herzegovina at least until its formal withdrawal on 19 May 1992. To the extent that the conflict has been limited to clashes between Bosnian government forces and Bosnian Serb rebel forces in Bosnia-Herzegovina, as well as between the Croatian Government and Croatian Serb rebel forces in Krajina (Croatia), they had been internal (unless direct involvement of the Federal Republic of Yugoslavia (Serbia-Montenegro) could be proven)." [28]

The Tribunal then went on to say:

> "(...) If the Security Council had categorized the conflict as exclusively international and, in addition, had decided to bind the International Tribunal thereby, it would follow that the International Tribunal would have to consider the conflict between Bosnian Serbs and the central authorities of Bosnia-Herzegovina as international. Since it cannot be contended that the Bosnian Serbs constitute a State, arguably the

28 *Supra* (note 12), para. 72.

> classification just referred to would be based on the implicit assumption that the Bosnian Serbs are acting not as a rebellious entity but as organs or agents of another State, the Federal Republic of Yugoslavia (Serbia-Montenegro). As a consequence, serious infringements of international humanitarian law committed by the government army of Bosnia-Herzegovina against Bosnian Serbian civilians in their power would not be regarded as 'grave breaches' because such civilians, having the nationality of Bosnia-Herzegovina, would not be regarded as 'protected persons' under Article 4, paragraph 1 of the Geneva Convention IV. By contrast, atrocities committed by Bosnian Serbs against Bosnian civilians in their hands would be regarded as 'grave breaches' because such civilians would be 'protected persons' under the Convention, in that the Bosnian Serbs would be acting as organs or agents of another State, the Federal Republic of Yugoslavia (Serbia-Montenegro) of which the Bosnians would not possess the nationality. This would be, of course, an absurd outcome, in that it would place the Bosnian Serbs at a substantial legal disadvantage *vis-à-vis* the central authorities of Bosnia-Herzegovina."[29]

The Appeals Chamber was aware that the consequences of classifying the conflict as exclusively international would result in a situation where Serb minorities in Croatia or in Bosnia and Herzegovina would not be protected persons in the sense of the 1949 Geneva Conventions. However, once the existence of an international armed conflict is established, civilians in the territory of the parties to the conflict become protected persons in the sense of Article 4 of the Fourth Geneva Convention.[30]

b) Is there sufficient evidence to prove the international character of Operation Storm?

There is at least one aspect which could give Operation Storm an international character, namely the assistance the Krajina

29 *Ibid.*, para. 76.

30 Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949.

Serbs received from the Serb authorities. Although the Yugoslav Army formally withdrew from Croatian territory in 1992, it continued to offer limited military support to the Serbian Army of Krajina. After the fall of Sector West in May 1995 the "Knin authorities" reshuffled their own armed forces and called for aid from the Bosnian Serbs and from Serbia. The assistance arrived in the form of retired Yugoslav National Army general Mile Mrskic, former commander of the Yugoslav Special Forces, together with a number of Special Forces personnel and 400 veteran volunteers from other Yugoslav military units. General Mrskic has meanwhile been indicted by the ICTY.[31]

The foregoing facts are not sufficient to conclude that Operation Storm did constitute an international armed conflict. In particular, there is insufficient evidence to prove the involvement of the Federal Republic of Yugoslavia in Operation Storm.

Conclusion

In the author's view, Operation Storm was a non-international armed conflict which meets the criteria set out by the ICTY Appeals Chamber in the *Tadic* case and by the Inter-American Human Rights Commission in the *La Tablada* case. An internal armed conflict existed between an organized armed group, the Serbian Army of Krajina (SVK), and Croatia. There is insufficient evidence to prove that the Yugoslav Army was directly involved in Operation Storm, which would have given the conflict an international character.

The Croatian government's position that Operation Storm was a mere internal police matter can hardly be upheld. In any event there is nothing to prevent the Prosecutor from launching an investigation, even assuming that Operation Storm was an internal police matter. According to Articles 16 and 18 of the ICTY Statute the Prosecutor "shall act independently" and "...shall initiate investigations *ex officio* or on the basis of information obtained from any source..." The Prosecutor must assess the information received or obtained and

31 *The Prosecutor v. Mrskic, Radic, Sijvancanin and Dkmanic* ("Vukovar Hospital Case"), Case No. IT-95-13a1.

decide whether there is sufficient basis to proceed. Where a *prima facie* case is determined to exist, the Prosecutor transmits an indictment to a judge of the Trial Chamber, who, if satisfied that a *prima facie* case has indeed been established, will confirm the indictment.

Therefore, even if Operation Storm was merely an internal police operation, it would still be within the competence of the Prosecutor to initiate an independent investigation on the basis of evidence gathered from "any source" (in the words of the ICTY Statute). Moreover, even if the Croatian government were to argue, by way of alternative reasoning, that as an independent State it was acting in self-defence against the FRY in accordance with the terms of Article 51 of the United Nations Charter, such a position would not preclude Croatia from observing international humanitarian law in the exercise of such right of self-defence.

The shelling of Knin by the Croatian Army was arguably not only militarily unjustified but constituted a violation of international humanitarian law, insofar as indiscriminate attacks were launched against civilians and civilian property was destroyed on a massive scale. It is within the powers and mandate of the International Criminal Tribunal for the former Yugoslavia to investigate Operation Storm and prosecute those alleged to be responsible for violating international humanitarian law.

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Résumé

Le bombardement de Knin par l'armée croate en août 1995 : une opération de police ou un conflit armé non international ?

PAR PHENYO KEISENG RAKATE

En août 1995, l'armée croate a mené une attaque contre la ville de Knin, située dans la partie de la Croatie peuplée majoritairement de Serbes. Le procureur du Tribunal pénal international pour l'ex-Yougoslavie a ouvert une enquête au sujet de cette opération qui a fait des victimes parmi la population civile. L'auteur se demande si cette opération militaire doit être qualifiée de simple action de police — la thèse du gouvernement croate —, ou s'il s'agit bel et bien d'une attaque dans le cadre d'un conflit armé non international entraînant l'applicabilité du droit international humanitaire. Il conclut à l'existence d'un conflit armé et à l'applicabilité des dispositions relatives aux conflits armés non internationaux.